

STATE OF MICHIGAN
DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES
Before the Director of the Department of Insurance and Financial Services

In the matter of:

Leigh Harter Speech Services
Petitioner

File No. 21-1816

v

Auto-Owners Insurance Company
Respondent

Issued and entered
this 31st day of January 2022
by Sarah Wohlford
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

On December 7, 2021, Leigh Harter Speech Services (Petitioner) filed with the Department of Insurance and Financial Services (Department) a request for an appeal pursuant to Section 3157a of the Insurance Code of 1956 (Code), 1956 PA 218, MCL 500.3157a. The request for an appeal concerns the determination of Auto-Owners Insurance Company (Respondent) that the Petitioner overutilized or otherwise rendered or ordered inappropriate treatment under Chapter 31 of the Code, MCL 500.3101 to MCL 500.3179.

The Petitioner's appeal is based on the denial of a bill pursuant to R 500.64(3), which allows a provider to appeal to the Department from the denial of a provider's bill. The Respondent issued the Petitioner bill denials on November 2, 17, and 18, 2021 and December 2, 2021. The Petitioner now seeks reimbursement in the full amount it billed for the dates of service at issue.

The Department accepted the request for an appeal on December 21, 2021. Pursuant to R 500.65, the Department notified the Respondent and the injured person of the Petitioner's request for an appeal on December 21, 2021 and provided the Respondent with a copy of the Petitioner's submitted documents. The Respondent filed a reply to the Petitioner's appeal on January 3, 2022.

The Department assigned an independent review organization (IRO) to analyze issues requiring medical knowledge or expertise relevant to this appeal. The IRO submitted its report and recommendation to the Department on January 20, 2022.

II. FACTUAL BACKGROUND

This appeal concerns the denial of payment for speech therapy treatments rendered on September 29, 2021 and October 6, 15, 20, 22 and 27, 2021 under Current Procedural Terminology (CPT) code 92507, which is described as assessment of an individual with communication and hearing difficulties. In its bill denials, the Respondent referenced Official Disability Guidelines (ODG) and stated that the submitted records lacked “indications supporting speech therapy treatments” and “functional improvements” in the injured person’s condition.

With its appeal request, the Petitioner submitted speech and language pathology notes which indicated that the injured person was involved in a motor vehicle accident in July of 2018 and identified the injured person’s diagnoses as unspecified intracranial injury with loss of consciousness greater than 24 hours with return to pre-existing conscious level. The Petitioner explained in its request for an appeal that “speech therapy services are reasonable and medically necessary” because the injured person “has difficulty with executive functioning skills, short-term memory recall, and new learning” and “speech therapy provides compensatory strategies” for the injured person to excel. The Petitioner noted that the Respondent paid for related procedure code 97129, which is described as therapeutic intervention that focuses on cognitive function and compensatory strategies; however, the procedure code at issue was denied.

The Petitioner’s request for an appeal stated:

Speech therapy services are medically necessary for [the injured person] to work on the following areas: sustained, divided and alternating attention; executive functioning; short-term and working memory; time management, task initiation, task completion, and follow through; visual and verbal problem-solving with functional tasks and new learning; and community reintegration and self-awareness...[The injured person] has been provided with home exercise program (HEP) tasks to prepare tasks to complete with assistance from the [Petitioner] ahead of time.

In its reply, the Respondent explained that its physician advisors performed a utilization review for the speech therapy treatments at issue. Based on their advising physicians’ recommendations, the Respondent concluded that the treatments “exceeded ODG guidelines of a treatment duration of 4 to 6 months.” The Respondent stated that “there is no indication of benefit with ongoing speech therapy” and that “there is also no documentation of functional speech or swallowing disorders.”

The Respondent further stated in its reply:

There is no documented indication for speech therapy 2 ½ years post-[motor vehicle accident] especially considering that the [injured person] has no speech, voice, language, communication or auditory processing disorder indicated...The medical records and the provider’s response do not provide any evidence that

there has been any functional improvement over the course of 42 visits. The [Petitioner] also does not provide any medical documentation from the [injured person's] treating physicians to outline why continued therapy far in excess of ODG is medically or reasonably necessary.

III. ANALYSIS

Director's Review

Under MCL 500.3157a(5), a provider may appeal an insurer's determination that the provider overutilized or otherwise rendered inappropriate treatment, products, services, or accommodations, or that the cost of the treatment, products, services, or accommodations was inappropriate under Chapter 31 of the Code. This appeal involves a dispute regarding inappropriate treatment and overutilization.

The Director assigned an IRO to review the case file. In its report, the IRO reviewer concluded that, based on the submitted documentation, medical necessity was not supported on the dates of service at issue and the treatment was overutilized in frequency or duration based on medically accepted standards.

The IRO reviewer is a medical doctor who is board-certified in physical medicine and rehabilitation with additional certification in electrodiagnostic medicine and acupuncture. In its report, the IRO reviewer referenced R 500.61(i), which defines "medically accepted standards" as the most appropriate practice guidelines for the treatment provided. These may include generally accepted practice guidelines, evidence-based practice guidelines, or any other practice guidelines developed by the federal government or national or professional medical societies, board, and associations. The IRO reviewer relied on American Academy of Physical Medicine and Rehabilitation (AAPMR) guidelines for mild traumatic brain injury (TBI), American Speech Language Hearing Association Guidelines, ODG, and medical literature for its recommendation.

The IRO reviewer explained that the injured person sustained a TBI and post-concussional syndrome following a motorcycle accident in July of 2018 and that he began speech therapy on October 4, 2018 and was discharged in April 2019 "because he met all established goals." The IRO reviewer noted that a neuropsychological evaluation performed in December of 2020 indicated that the injured person had normal speech and a mild neurocognitive disorder due to TBI. The IRO reviewer stated that speech therapy treatment on the dates of service at issue indicated that the injured person required verbal cues for complex visual tasks and had difficulty with decision-making and planning, and that a home exercise program was prescribed; in addition, the injured person was "moderately independent with external memory aids with verbal cues."

The IRO reviewer stated:

During the 9/29/21 to 10/27/21 time frame, there was no documentation of significant improvement in speech and/or language function. As of 9/29/21, [the injured person] could be treated with a home speech and language exercise program.

The IRO reviewer stated that the AAPMR guidelines clarify that treatments for mild TBI “should be geared toward the symptoms the individual reports and exhibits” and that the “treatment plan should be personalized for the individual.” The IRO reviewer explained that “in some cases, perhaps 10% of people with TBI symptoms persist” for three months post-injury and that therapeutic treatments in the form of physical, occupational, or speech therapy can continue if they appear to be helping.

However, the IRO reviewer further opined:

In this case, there is no documentation of significant improvement with speech therapy during the 9/29/21 to 10/27/21 time frame, and therefore speech therapy would not be supported by the American Academy of Physical Medicine and Rehabilitation Guidelines, would not be considered medically necessary, and would be considered overutilized.

The IRO reviewer recommended that the Director uphold the Respondent’s determination that the speech therapy treatments provided to the injured person on September 29, 2021 and October 6, 15, 20, 22 and 27, 2021 were not medically necessary in accordance with medically accepted standards, as defined by R 500.61(i).

IV. ORDER

The Director upholds the Respondent’s determinations dated November 2, 17, and 18, 2021 and December 2, 2021.

This order applies only to the treatment and dates of service discussed herein and may not be relied upon by either party to determine the injured person’s eligibility for future treatment or as a basis for action on other treatment or dates of service not addressed in this order.

This is a final decision of an administrative agency. A person aggrieved by this order may seek judicial review in a manner provided under Chapter 6 of the Administrative Procedures Act of 1969, 1969 PA 306, MCL 24.301 to 24.306. MCL 500.244(1); R 500.65(7). A copy of a petition for judicial review should be sent to the Department of Insurance and Financial Services, Office of Research, Rules, and Appeals, Post Office Box 30220, Lansing, MI 48909-7720.

Anita G. Fox
Director
For the Director:

X *Sarah Wohlford*

Sarah Wohlford
Special Deputy Director
Signed by: Sarah Wohlford